



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/310,596	05/12/1999	RAFAEL S. LISITSA	777.241US1	9040
23460	7590	04/23/2004	EXAMINER	
LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6780			VAUGHN JR, WILLIAM C	
			ART UNIT	PAPER NUMBER
			2143	
DATE MAILED: 04/23/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/310,596

Applicant(s)

LISITSA ET AL.

Examiner

William C. Vaughn, Jr.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-42 and 57-81 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-42 and 57-81 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 14.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2143

### **DETAILED ACTION**

1. This Action is in regards to the most recent papers received on 28 January 2004.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 January 2004 has been entered.

#### ***Information Disclosure Statement***

3. The references listed in the Information Disclosure Statement submitted on 28 January 2004, have been considered by the examiner (see attached PTO-1449).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10-42 and 57-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dave et al. (Dave), U.S. Patent No. 6,086,628 in view of Bernstein et al. (Bernstein), U.S. Patent No. 5,282,202.

Art Unit: 2143

6. Regarding independent claims 1, 11, 21, 33, 57, 69, 80 and 81 (e.g., exemplary independent claim 1). Dave discloses a method for processing frames of streaming data through modules in a digital computer, constructing a graph as a sequence of the modules for accepting and processing the frames of streaming data to achieve desired output data [see Dave, Figures 1-2, Col. 5, 15-67 and Col. 6, lines 1-65], providing a common memory area accessible to the modules for storing streaming data [see Dave, 8, lines 32-35, 50-55 and Col. 12, lines 25-35]; and transporting the streaming data through different ones of the modules in the group in different ones of the subframes [see Dave, Col. 12, lines 40-63]. However, Dave does not explicitly disclose allocating composite frames in the common memory area, each composite frames having predefined subframes and restructuring the data among at least some of the subframes in the restructuring module .

7. In the same field of endeavor, Bernstein discloses (i.e., composite frame reconfiguration in integrated services networks). Bernstein discloses allocating composite frames in the common memory area, each composite frames having predefined subframes [see Bernstein, Col. 3, lines 24-28, Col. 4, lines 49-53 and Col. 27, lines 37-44] and restructuring the data among at least some of the subframes in the restructuring module [see Bernstein, Col. 15 and Col. 16].

8. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Bernstein's teachings of composite frame reconfiguration in integrated services networks with the teachings of Dave, in order to perform or implement particular tasks and thus Dave provides motivation to do so by stating the need to support communication within a multimedia environment [see Dave, Col. 2, lines 26-46].

Art Unit: 2143

9. Regarding dependent claims 2-8, 10, 12-20, 22-32, 34-42, 58-68 and 70-79, the limitations of these claims are taught within the figures and disclosure of Dave and Bernstein.

### ***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-8, 10-42, 80 and 81 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15-24 of U.S. Patent No. 09/310,610. Although the conflicting claims are not identical, they are not patentably distinct from each other because allocating of composite frames in the common memory area, each composite frame having predefined subframes would have been obvious to one of ordinary skill in the networking art at the time the invention was made.

This is a provisional obviousness-type double patenting rejection.

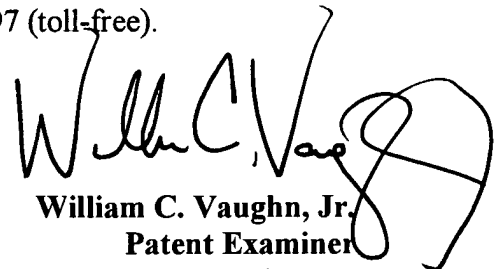
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (703) 306-9129. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

Art Unit: 2143

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**William C. Vaughn, Jr.**  
**Patent Examiner**  
**Art Unit 2143**  
**14 April 2004**